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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,540	11/25/2003	John E. Thomas	117P30US01	5699
23322	7590	02/23/2006	EXAMINER	
IPLM GROUP, P.A. POST OFFICE BOX 18455 MINNEAPOLIS, MN 55418			KUMAR, RAKESH	
			ART UNIT	PAPER NUMBER
			3654	
DATE MAILED: 02/23/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/721,540	THOMAS, JOHN E.	
	Examiner	Art Unit	
	Rakesh Kumar	3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03/17/2004</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "22" and "26" have both been used to designate the "Aperature". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. Figure 3 and 4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the

applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: The Applicant in the specifications section discloses a limitation "the aperture 22" and "an aperture 26" on page 6 line 6 and on page 7 line 6. A different identification name should be provided for each member number disclosed. It is suggested that the applicant use terms such as "the first aperture" and "an second aperture." Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,4,5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Lawrence (U.S. Patent Number 6,287,458).

5. Referring to claim 1. Lawrence discloses an automatic chlorinator apparatus using a low product indicator (134; Figure 1), comprising:

a) a cap (112) including an aperture (see aperture through member 156; Figure 1);

b) a rod (142) extending through said aperture (see aperture through member 156; Figure 1) for contacting a product (116); and

c) a biasing member (128) operatively connected to said rod (142) thereby biasing said rod (142) against the product (116) allowing said rod (142) to move through said cap (112) as the product (116) is dispensed, wherein visual indication (see Figure 2) of a level (marking 202 and 204; Figure 3) of the product (116) is evident as said rod (142) moves through said cap (112).

6. Referring to claims 4 and 8. Lawrence discloses an automatic chlorinator apparatus using a low product indicator (134; Figure 1), further comprising a signal mechanism (138; Figure 2 and 3), said signal mechanism (138; Figure 2 and 3) being operatively connected to said rod (142) and providing indication (see markers 202 and 204) when the level of the product is low.

7. Referring to claim 5. Lawrence discloses an automatic chlorinator apparatus using a low product indicator (134; Figure 1), comprising:

a) a cap (112) including an aperture (see aperture through member 156; Figure), the cap (112) configured and arranged to be operatively connected to a dispenser(100; Figure 1);

b) a rod (142) extending through said aperture (see aperture through member 156; Figure) for contacting a product (116); and

c) a biasing member (128) operatively connected to said rod (142) thereby biasing said rod (142) against the product (116) allowing said rod (142) to move through said cap (112) as the product (116) is dispensed (see flow in member 104), wherein visual indication of a level (Figure 2 and 3) of the product (116) is evident as said rod (142) moves through said cap (112).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2,3,6,7 and 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawrence as applied to claim 1 above, and further in view of Owens (U.S. Patent Number 4,278,856).

10. Referring to claims 2 and 6. Lawrence discloses an automatic chlorinator apparatus using a low product indicator (134; Figure 1), further comprising a fixed member (102) operatively connected to a cap (112).

Lawrence does not disclose a biasing member exerting force against said fixed member thereby pushing said rod through the cap.

Owens discloses a fluid pressure indicator switch (Figure 1) wherein a biasing member (20; Figure 1) exerts a force against a fixed member (10) thereby pushing said rod (19) through the cap (22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Lawrence and include a spring exerting a force against a fixed member and resulting in a driving force to drive the rod through the cap aperture as taught by Owens because the driving mechanism could be placed outside the housing containing the tablets thus increase the number of tablets that can be held in the apparatus.

11. Referring to claims 3,7 and 10, 14. Regarding claim 3 Lawrence discloses an apparatus wherein the biasing member is a spring (128).

12. Referring to claims 9 and 11. Lawrence discloses a low product indicator (134; Figure 1) for use with a dispenser (100; see tablet dispensing at member 162; Figure 1) for dispensing a product (116), the dispenser (100) including an opening (spaces in between members 162) and a chamber (122, 124 and 126) containing the product (116), comprising:

a) a cap (112) configured and arranged to cover an opening of a dispenser (see closed end of member 108) , said cap (112) including an aperture (see aperture through member 156; Figure 1);

b) a fixed member (102) operatively connected to said cap (112);

c) a rod (142) extending through said aperture (see aperture through member 156; Figure 1) and the opening into the chamber (122, 124 and 126) and contacting the product (116) within the chamber (122, 124 and 126); and

d) a biasing member (128) operatively connected to said rod (142) thereby providing a positive pressure against the product (116) and to indicate when the product (116) is low within the dispenser (Figure 2 and 3).

Lawrence does not disclose a biasing member biasing said rod against said fixed member.

Owens discloses a fluid pressure indicator switch (Figure 1) wherein a biasing member (20; Figure 1) exerts a force against a fixed member (10) thereby pushing said rod (19) through the cap (22) and against the fixed member (10 through member 22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Lawrence and include a spring exerting a force against a fixed member and resulting in a driving force to drive the rod through the cap aperture as taught by Owens because the driving mechanism could be placed outside the housing containing the tablets thus increase the number of tablets that can be held in the apparatus.

13. Referring to claim 11. See claim 4.

14. Referring to claim 12. See claims 1-11. Regarding method claim 12, although Lawrence in view of Owens do not explicitly disclose a method of using their apparatus, the method steps recited in the claim would inherently be performed when using the apparatus of Lawrence in view of Owens in its usual and expected fashion.

15. Referring to claim 13. Lawrence discloses an automatic chlorinator apparatus using a low product indicator (134; Figure 1) for dispensing chlorine tablets (116), comprising:

a) a dispenser (100) including a chamber (122, 124 and 126), a refill end (108) having an opening (removable member 112) providing access to said chamber (122, 124 and 126), and a dispensing end (110);

b) Chlorine tablets (116) within said chamber (122, 124 and 126), the chlorine tablets (116) being added to said opening (removable member 112) of said refill end (108) into said chamber (122, 124 and 126) and being dispensed through said dispensing end (110);

c) a cap (112) covering said opening (108) and including an aperture (see aperture through member 156; Figure 1);

d) a rod (142) extending through said aperture (see aperture through member 156; Figure 1) and said opening into said chamber (122, 124 and 126) and having contact with the chlorine tablets (member 118 in contact with 116);

e) a biasing member (128) operatively connected to said rod (142) thereby biasing said rod (142), wherein said rod (142) provides positive pressure against the chlorine tablets (116) to push the chlorine tablets (116) down proximate said dispensing end (110); and

f) an indicator (134; Figure 2 and 3) operatively connected to said rod (142), wherein said indicator provides visual indication (see markers 202 and 204; Figure 2) of an amount of the chlorine tablets (116) within said chamber (122, 124 and 126) as said rod (142) pushes the chlorine tablets (116) down proximate said dispensing end (110).

16. Referring to claim 15. See claim 4.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawrence in view of Owens as applied to claim 13 above, and further in view of Taylor-McCune (U.S. Pub. US 2002/0166880).

17. Referring to claims 16-18. Lawrence discloses a low product indicator (134; Figure 1) comprising:

a) a dispenser (100) including a chamber (122, 124 and 126), a refill end (108) having an opening providing access (removable member 112) to said chamber (122, 124 and 126), and a dispensing end (110);

b) a product (116) contained within said chamber (122, 124 and 126) and dispensed through said dispensing end (110);

c) a cap (112) covering said opening (108) and including a first aperture (aperture through member 112);

d) a fixed member (102) operatively connected to said cap (112),

said fixed member (102) including a top (148) with a second aperture (aperture through member 148) displaced from said cap (112), said fixed member (102) creating a cavity (see cavity space between members 148 and 112; Figure 1) between said top (148) and said cap (112);

e) rod (142) extending from within said cavity (see cavity space between members 148 and 112; Figure 1), through said first aperture (aperture through 112) and said opening (108), and into said chamber (122, 124 and 126), said rod (142) having contact with the product (116);

f) a spring (128) contained within said cavity of said fixed member (102), thereby pushing said rod (142) into said chamber (122, 124 and 126) of said dispenser (100);
and

g) an indicator operatively connected (134) to said rod (142), wherein said indicator extends through said second aperture (aperture through 148) to provide visual indication (see markers 202 and 204; Figure 2 and 3) of an amount of the product (116) within said chamber (122, 124 and 126) as said rod (142) pushes the product (116) down proximate said dispensing end (110).

Lawrence does not disclose a rod having a flange, and does not disclose a flange being within said cavity nor does Lawrence disclose a spring providing a force between the top of the fixed member and the flange of a rod.

Taylor-McCune disclose a dispensing tap comprising a rod (83; Figure 7) having a flange (see flange on rod above member 88; Figure 7). Furthermore, Taylor-McCune

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disclose a flange disposed on the rod (83) located within a cavity with a spring providing a force between the top of the fixed member (90) and the flange of a rod (83).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Lawrence in view of Owens and include a flange disposed on a rod and provide an engagement point for a spring to act between the top of the fixed member and the flange of the rod as taught by Taylor-McCune. As a result, material cost can be reduced while increasing the capacity to hold more tablets in the dispenser.

18. Referring to claim 18. See claim 4.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (517) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RK
February 7, 2006

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